

PREHEARING CONFERENCE
AND
EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
) Docket No. 08-AFC-3
Application for Certification)
For The Mirant Marsh Landing)
Generation Station Project)
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

THURSDAY, JULY 1, 2010

2:11 P.M.

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EHLERT BUSINESS GROUP (916) 851-5976

APPEARANCES

COMMITTEE MEMBERS

Jim Boyd, Presiding Member

Karen Douglas, Associate Member

HEARING OFFICERS, ADVISERS

Paul Kramer, Hearing Officer

Sarah Michael, adviser to Commissioner Jim Boyd

STAFF

Kerry Willis, Senior Staff Counsel

Mike Monasmith, Project Manager

PUBLIC ADVISER

Jennifer Jennings

APPLICANT

Lisa A. Cottle, Esq.
Winston & Strawn, LLP

Jonathan A. Sacks, Director
Mirant

Anne Connell, Project Manager
URS

ALSO PRESENT

J. Tom Baca, International Brotherhood of Boilermakers

Victor Carniglia, City of Antioch

Rosana Carvacho, representing Senator Mark DeSaulnier

Mayor James Davis, City of Antioch

Greg Feere, Contra Costa Building & Construction Trades
Council

APPEARANCES CONTINUED

ALSO PRESENT

Tom Hansen, IBEW Local 302

George Kikes, Plumbers & Steamfitters 342

Brian Lusher, Bay Area Air Quality Management District

Erik Skov, URS

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NUMBER	IN EVIDENCE
1-44, 100-108, 300 & 301	14

1 PROCEEDINGS

2 PRESIDING MEMBER BOYD: Good afternoon, ladies
3 and gentlemen. Welcome to this interesting and novel
4 prehearing conference and evidentiary hearing on the
5 Mirant Marsh Landing Generating Station Project.

6 I'm Jim Boyd, the presiding member of the Siting
7 Committee. And I am joined by the associate member,
8 Commissioner and Chair of the Commission, Karen Douglas.

9 To my right is my principal advisor, Sarah
10 Michael. And -- oh, you're advisor-less.

11 ASSOCIATE MEMBER DOUGLAS: I'm advisor-less
12 today.

13 PRESIDING MEMBER BOYD: We'll let it go at that.

14 Well, I'm glad to have Commissioner Douglas here,
15 because originally there was going to be yet another
16 PowerPoint case that she was going to have to sit in.

17 I've been in this chair since early this morning.
18 We had another hearing in this room on a different case.

19 I also am losing my voice, in case you don't
20 detect it. Of course I was losing it yesterday too. It's
21 still hanging in there. But I'm glad that Commissioner
22 Douglas is here to rescue me if I'm suddenly speechless,
23 which some people would treasure.

24 (Laughter.)

25 PRESIDING MEMBER BOYD: With that -- and of

1 course Mr. Kramer -- Paul Kramer is the hearing officer.
2 And in a few moments I will gladly turn the microphone
3 over to him to allow him to conduct this hearing. But
4 first we'll go through introductions. And I'd like to
5 start with the CEC staff.

6 SENIOR STAFF COUNSEL WILLIS: Good afternoon,
7 commissioners. My name is Kerry Willis. I'm Senior Staff
8 Counsel. And with me is Mike Monasmith, the project
9 manager. We also have various staff available in the
10 audience later eager to answer any questions that you
11 might have on this Staff Assessment.

12 PRESIDING MEMBER BOYD: Thank you.

13 Good to see you, Mr. Monasmith. You've been
14 sitting in that chair since early this morning also. You
15 had my other case as well. So thank you.

16 The applicant please.

17 MS. COTTLE: Yes, thank you.

18 I'm Ms. Lisa Cottle. I'm counsel for Mirant
19 Marsh Landing LLC, which is the applicant in this case.
20 To my right is Jonathan Sacks. He is director of business
21 development and transactions at Mirant Corporation and
22 also the project director for this project. And to his
23 right is Anne Connell, who's the project manager for the
24 Marsh Landing Project.

25 We also have additional witnesses with us today

1 in the audience who are prepared to answer questions.

2 PRESIDING MEMBER BOYD: Thank you very much and
3 welcome to all of you.

4 CURE is our official intervenor. But -- well,
5 I've been informed that they were not going to be present
6 today. And I don't see anybody at the table. And I
7 presume no one's on the phone from CURE, to the best you
8 can tell.

9 So we're going to -- I'm going to turn it over to
10 Mr. Kramer here in a moment. But we have a couple of
11 distinguished people here who want to speak.

12 And I guess I should ask also in terms of any
13 parties attending this besides the intervenors.

14 Is there a representative of the Bay Area Air
15 Quality Management District, present or on the phone?

16 Yes.

17 Would you like to just stand up and introduce
18 yourself, since we may have questions for you.

19 MR. LUSHER: Yeah. My name is Brian Lusher, and
20 I'm the permit engineer for the Marsh Landing Generating
21 Station.

22 PRESIDING MEMBER BOYD: Is the green light on on
23 that mike?

24 MR. LUSHER: It appears to be.

25 Oh, now it is. Sorry.

1 PRESIDING MEMBER BOYD: Oh, okay. Maybe you can
2 say it again.

3 MR. LUSHER: My name is Brian Lusher. I'm the
4 permit engineer for the Marsh Landing Generating Station.

5 PRESIDING MEMBER BOYD: Welcome, Brian. Thank
6 you for being here.

7 Are there any local elected officials or
8 representatives of local agencies here who would like to
9 introduce themselves for the record? I do have a card
10 from the mayor, and I will call on him shortly, and a
11 representative from Senator DeSaulnier's office. But any
12 other local folks who are willing to identify themselves?

13 (Laughter.)

14 MR. CARNIGLIA: Good afternoon. My name is
15 Victor Carniglia. I'm staff with the City of Antioch here
16 to listen to the proceedings, answer any questions that
17 may come up.

18 PRESIDING MEMBER BOYD: Thank you and welcome.

19 Any other folks who'd like to be identified for
20 the record, from any agency, State, federal or
21 otherwise -- local?

22 Okay. If not, before I turn it over to Mr.
23 Kramer and let him go through the processes, I would like
24 to give an opportunity to the representative of Senator
25 DeSaulnier's office, Rosana Carvacho, if I've said that

1 right, to make a statement.

2 Senator DeSaulnier is an old friend of mine.

3 MS. CARVACHO: Oh, okay. I'll let him know that
4 you said hello.

5 PRESIDING MEMBER BOYD: Please say hello to him,
6 yes.

7 MS. CARVACHO: Good afternoon, Commissioners. My
8 name is Rosana Carvacho, and I'm here on behalf of Senator
9 DeSaulnier, who represents Antioch as well as most of
10 Contra Costa County. He is in support of the project.
11 And I just wanted to thank you for your time.

12 Thank you very much.

13 PRESIDING MEMBER BOYD: Thank you. And I should
14 not call him an old friend of mine. I should say a friend
15 of mine of longstanding or something like that.

16 (Laughter.)

17 PRESIDING MEMBER BOYD: I'm the old person here.

18 Also, Mayor Davis, the Mayor of the City of
19 Antioch.

20 ANTIOCH MAYOR DAVIS: Good afternoon. Thank you
21 for this opportunity to talk with you this afternoon.

22 I am Mayor Davis from the City of Antioch. We
23 are a community of over a hundred thousand people located
24 on the San Joaquin River. I appreciate this opportunity
25 to come before you and to talk a little bit about the

1 Mirant Marsh Landing Generation Station.

2 A little bit of background. The generation
3 station is just outside the City of Antioch boundaries.
4 The city is in the process now of annexing that area. The
5 city expects the annexation process to go through smoothly
6 in the near future. And the City of Antioch will provide
7 potable water and sewer connection and connections to the
8 plant.

9 The city's position is that there are so many
10 positives and few negatives about this project, that it's
11 easy for me to stand here and support this project going
12 forward. The environmental benefits as a peaker plant,
13 the generation station will work together in a
14 complementary way with existing powerplants in the area as
15 well as the windmill over in Solano County.

16 The generation station will help peace in the
17 retirement of the older plant, which has not been
18 environmentally compliant with our area. The existing
19 powerplant currently also will help make -- to have an
20 negative impact on the San Joaquin Delta River because it
21 uses water that will be state of the art and air cooling
22 is proposed by the design.

23 The economic benefits the construction will --
24 approximately \$600,000 will provide jobs in the East Bay
25 and Contra Costa area, well paying union jobs; support

1 local suppliers and vendors.

2 The generation station which greatly enhanced the
3 tax base of the City of Antioch, which would be greatly
4 appreciated, particularly now.

5 It's just good economics and with a good
6 environmental record. As mayor, it's not too often you
7 see these type of projects come forward that are both
8 environmentally and locally sound for our economy.

9 So with that, I just wanted to be here and give
10 my full support.

11 Thank you.

12 PRESIDING MEMBER BOYD: Thank you. Thank you for
13 being here.

14 One last thing that I neglected earlier that I
15 want to make up for, our public advisor, Jennifer
16 Jennings, is sitting in the back of the room. Jennifer is
17 a very important component of the siting process here at
18 the Commission. And she's readily available for those of
19 you who need the assistance and advice and counsel of
20 public advisor. So she's been identified.

21 And thank you, Jennifer, for being here. You too
22 have been in the room with me all day today.

23 And with that, I will turn the hearing, and my
24 voice would just love to turn the hearing over to the
25 hearing officer.

1 Mr. Kramer.

2 HEARING OFFICER KRAMER: Thank you, Commissioner
3 Boyd.

4 PRESIDING MEMBER BOYD: Excuse me. I forgot to
5 ask my associate member if she'd like to make any
6 comments.

7 ASSOCIATE MEMBER DOUGLAS: Thank you,
8 Commissioner Boyd. Just to welcome everybody here and
9 thank Mr. Monasmith and Ms. Jennings and you for your
10 endurance as we sit through many days of different siting
11 hearings.

12 So thank you.

13 PRESIDING MEMBER BOYD: All right, Mr. Kramer.

14 HEARING OFFICER KRAMER: Okay. Let's continue
15 then with the introductions with the people on the
16 telephone.

17 Just let me get to the right screen.

18 On the telephone I -- some people have already
19 identified themselves. So I'll read your names and save
20 you the effort of speaking up to introduce yourselves,
21 unless you need to tell us something.

22 Andrea Ricci.

23 Greg Feere.

24 Kathleen Truesdale.

25 Negar Vahidi.

1 Our famous podium here in the room:

2 Robert Worl from staff.

3 And Vince Geronimo.

4 But we have several other callers who are not
5 identified. So if I didn't call your name and you want to
6 be identified for the record, could you please speak up
7 now.

8 MR. SKOV: This is Erik Skov with URS
9 Corporation.

10 HEARING OFFICER KRAMER: How do you spell -- I
11 guess Erik could be spelled different ways. So can you
12 spell your full name for us for the benefit of our
13 reporter.

14 MR. SKOV: Yes. It's first name, E-r-i-k; last
15 name Skov, S-k-o-v, like in Victor.

16 HEARING OFFICER KRAMER: Thank you.

17 Anyone else?

18 Okay. Well, let's begin with our prehearing
19 conference then, which should just take a couple minutes.

20 We've read the prehearing conference statements,
21 and thank the parties for filing them.

22 And does any party have anything to add to what
23 was in their prehearing conference statement?

24 SENIOR STAFF COUNSEL WILLIS: We don't.

25 MS. COTTLE: The only thing I'd add is that we

1 did circulate two addition exhibits that we propose to
2 discuss and enter as part of our direct presentation this
3 afternoon, if that's acceptable to the Committee.

4 HEARING OFFICER KRAMER: Okay. And I have those
5 on my list.

6 And for housekeeping, if anybody needs a copy of
7 the notice of this meeting, I have a couple extras. Just
8 let me know.

9 And earlier I had passed out a copy of the latest
10 draft of the exhibit list to the parties. I have one
11 extra copy if somebody feels they need one.

12 Seeing none, I'll recycle it then.

13 But we will get to those exhibits in a few
14 minutes.

15 It appears then that we are ready to go forward
16 with the evidentiary hearing, unless I hear some objection
17 from one of the parties.

18 Seeing none, then we will close our prehearing
19 conference and begin our evidentiary hearing.

20 It's probably best to swear in all our witnesses
21 at once if we can. So those of you who are on the
22 telephone who might be testifying, if you could raise your
23 right hand; and those of you in the room who maybe
24 testifying, if you could stand and raise your right hand,
25 the court reporter will swear you in.

1 (Thereupon the witnesses were sworn, by the
2 court reporter, to tell the truth, the whole
3 truth and nothing but the truth.)

4 HEARING OFFICER KRAMER: Thank you.

5 In their prehearing conference statements the
6 parties both suggested that their evidence could be
7 submitted by stipulation on the basis of the declarations
8 that were attached to the testimony.

9 So we have -- and in addition to that, Ms. Cottle
10 yesterday circulated two new exhibits, 43 and 44. Both of
11 those are now listed on the exhibit list I passed out
12 earlier.

13 So, let me ask if any party has any objections to
14 any of the exhibits that have been offered by the other
15 party?

16 SENIOR STAFF COUNSEL WILLIS: Staff doesn't have
17 any exhibits -- I'm sorry -- objections to the exhibits.

18 MS. COTTLE: The applicant has no objections to
19 the exhibits.

20 HEARING OFFICER KRAMER: Okay. Now, Ms. Cottle,
21 in your prehearing conference statement you also
22 mentioned -- I can't remember if it was one or two
23 letters -- additional letters from PG&E that just came in
24 that you were -- it wasn't clear if you wanted to
25 introduce those or not.

1 MS. COTTLE: Well, these are letters from PG&E
2 and its environmental consultant, which is currently
3 working on evaluating the project site to determine the
4 extent of existing known contamination. PG&E is working
5 with the California Environmental Protection Agency's
6 Department of Toxic Substances Control to determine
7 whether and to what extent a remedial plan may be needed
8 for the site. And staff's Revised Staff Assessment
9 acknowledges that that work is ongoing and has determined
10 that the analysis of the project site that's been
11 conducted and documented in this case to date is
12 sufficient for them to conclude that all LORS will be
13 complied with and that the Conditions of Certification
14 they've drafted are sufficient to protect workers.

15 But it is acknowledged that PG&E is continuing to
16 do work in furtherance of achieving regulatory closure
17 with DTSC.

18 So the additional documents that I identified in
19 the prehearing conference statement are more of our
20 correspondence from PG&E providing further updates to the
21 status of its work with DTSC. One of the documents
22 identifies the activities that have been completed to
23 date. And another document is a community profile that
24 PG&E has provided to DTSC as part of its analysis.

25 So in our view, these are additional

1 correspondence that we have said we would provide to
2 staff, which we have provided copies. There's a Condition
3 of Certification in the Revised Staff Assessment. It's
4 Waste 10, that requires the project owner to ensure that
5 all remedial action that may be required by DTSC is
6 complete prior to starting any soil excavation activities
7 in the affected areas.

8 It also requires the project owner to submit
9 copies of all correspondence and work plans and other
10 types of documents to the compliance -- the Energy
11 Commission's compliance project manager.

12 So these types of documents will continue to be
13 generated post-certification. And the applicant will
14 continue to supply them to staff as they come in. And the
15 project owner will supply them to the compliance project
16 manager post-certification.

17 So for those reasons, we did not see a need to
18 include them as evidence in the record. But we wanted to
19 make the Committee aware of their existence and explain
20 them. And if there's a desire to have them included in
21 the record, we're happy to do that.

22 HEARING OFFICER KRAMER: Okay. It doesn't sound
23 as if we need to add those to this record then.

24 MS. COTTLE: Okay. Thank you.

25 HEARING OFFICER KRAMER: Okay. So then we have

1 Exhibits 1 through 44 and 100 through 108 and 300 and 301.
2 And those will all be admitted by the stipulation of the
3 parties.

4 Then that brings us to a few specific topics that
5 the Committee has questions about. We'll just note that
6 the staff and the applicant have agreed to the applicant's
7 proposed changes to condition of soil and water 4 and 6.

8 Is that correct, Ms. Willis?

9 SENIOR STAFF COUNSEL WILLIS: That's correct.

10 HEARING OFFICER KRAMER: Okay. And those changes
11 were reflected in staff's -- or rather the applicant's
12 Exhibit 42, which was the written testimony of each of its
13 topic witnesses.

14 Let's move on then to the topic of air quality.
15 And for this I think it would be most efficient to convene
16 a panel of the air quality witnesses. So Mr. Lusher and
17 staff's witness, Mr. Birdsall. And, Ms. Cottle, we might
18 as well put your witness up in this panel as well.

19 MS. COTTLE: Okay. We have John Lague from the
20 URS Corporation.

21 HEARING OFFICER KRAMER: So, Mr. Lague, if you
22 could go over and sit next to Ms. Willis, I suppose.

23 All of you were here to be sworn, correct?

24 Okay. You'll need to share that microphone.

25 BREWSTER BIRDSALL, JOHN LAGUE & BRIAN LUSHER

1 were called as witnesses herein, and after
2 first having been duly sworn, was examined and
3 testified as follows:

4 HEARING OFFICER KRAMER: Mr. Lusher, there's a
5 requirement in our warrant office stack, section
6 25523(d)(2), that the air districts make a certification
7 that -- actually I forgot to print it and bring it with
8 me. But it's to the effect that the applicant has
9 identified sufficient air emission credits to offset -- or
10 the credits that are required under the district's rules,
11 and that those will be provided by the time that is
12 required in the district's rules.

13 Are you prepared to make that certification on
14 behalf of the district?

15 MR. LUSHER: Yes, I am. The applicant holds
16 sufficient air quality credits -- or emission reduction
17 credits to offset their NOx and POC emissions from the
18 project.

19 HEARING OFFICER KRAMER: Somebody on the
20 telephone, did you hear him okay?

21 MR. SKOV: Yeah, I heard him fine.

22 HEARING OFFICER KRAMER: Okay. It must be our
23 speakers in here. He doesn't sound very loud up at the
24 podium. But as long as you're hearing him, we're good to
25 go.

1 Okay. Thank you for that certification, Mr.
2 Lusher.

3 Any of the witnesses -- we wanted to just
4 confirm, since the final determination of compliance came
5 out after the Revised Staff Assessment, that all of the
6 changes to the conditions that were contained in the FDOC
7 have been reflected in the conditions that are contained
8 in the Revised Staff Assessment.

9 MR. BIRDSALL: Yes, Hearing Officer Kramer. This
10 is Brewster Birdsall. I prepared the Staff Assessment,
11 the Revised Staff Assessment as well. And when the FDOC
12 was released, I went back to the Staff Assessment and
13 confirmed that our conditions in the Staff Assessment do
14 match the conditions that are in the FDOC.

15 HEARING OFFICER KRAMER: Thank you.

16 One of the issues that was raised in the
17 testimony from proposed intervenor Mr. Sarvey was ammonia
18 slip. And so we wanted to -- we wanted any of you who
19 wish to speak to that topic to explain why the ammonia
20 slip can or cannot be reduced to the levels that Mr.
21 Sarvey was asking. I believe he was asking for 5 ppm. Is
22 that the correct measure?

23 MR. BIRDSALL: Yes. Again, this is Brewster
24 Birdsall. And the Staff Assessment that was released in I
25 believe the end of April or early May originally had a

1 Condition of Certification recommended by staff for
2 ammonia slip to be kept to about 5 ppm on a 24-hour
3 rolling basis. And then if it drifted above 5 ppm, then
4 it would be a trigger for further action by the powerplant
5 owner. And we changed that in the Revised Staff
6 Assessment after hearing during the workshops in May about
7 the technical difficulties of achieving compliance with
8 our Condition of Certification, and also the costs.

9 And we took that information that was provided by
10 the applicant after the workshop and dissolved part of the
11 Revised Staff Assessment. Then we removed the
12 condition -- we removed the condition.

13 But the ammonia slip will still be limited to 10
14 ppm. And this is a level that's consistent with other
15 simple cycle powerplants around the State. This is
16 obviously a simple cycle, and we'll be in a much larger
17 one than we commonly deal with. But for these kinds of
18 powerplants, 10 ppm is essentially the standard that we
19 have been adhering to for many years.

20 And so we agreed with the applicant's information
21 would be sufficient to justify following the 10 ppm limit.

22 MR. LUSHER: This is Brian Lusher with the Bay
23 Area Air Quality Management District.

24 I'd just like to add that there was significant
25 discussion on the ammonia slip issue at the last

1 proceeding. And the way we looked at some other
2 powerplants that are at 5 ppm, at our simple cycle but
3 they're much smaller units - for example, LM6000 units
4 that are throughout the State, there's one in San Diego
5 called the Orange Grove Project, it has a 5 ppm slip
6 limit, but it's a 50 megawatt turbine, and these are 190
7 megawatt turbines that have different exhaust
8 temperatures. This project has a higher exhaust
9 temperature. And it makes challenging -- I mean it makes
10 controlling NOx more challenging.

11 And then the district also considered the fact
12 that this plant could be used to follow the load, and it
13 might have rapid load changes. And that makes controlling
14 NOx challenging as well. So we felt that 10 ppm over a
15 short period of time would be necessary to meet the 2.5
16 ppm NOx limit.

17 HEARING OFFICER KRAMER: Mr. Lague, did you want
18 to add anything?

19 MR. LAGUE: Yes, please.

20 I just want to emphasize that Mirant very closely
21 investigated the ability of this plant to go to a lower --
22 to minimize the ammonia slip emissions. And because of
23 what Mr. Lusher just stated, the high temperature and the
24 fact that because it's a frame size turbine, those high
25 temperatures have to be reduced to a lower level in order

1 for the SCR to work for controlling the NOx, and that it
2 requires introduction of a very large amount of dilution
3 air into the system, which makes it very difficult to get
4 enough mixing of an ammonia to have a consistent level of
5 ammonia through the exhaust screen. And we have not been
6 able to get any of the vendors or SCR or the EBC
7 contractors to agree to accept the, you know -- or
8 guaranty -- to provide a guaranty that they could meet
9 anything better than 10 ppm.

10 And that's really just a little background into
11 why we reached the conclusion we did and that none of
12 these agencies have been in agreement that those are valid
13 arguments.

14 HEARING OFFICER KRAMER: So what's the importance
15 of having a guaranty from the vendor?

16 MR. LAGUE: Really we should have the John Sacks
17 answer that.

18 MS. COTTLE: Yeah, we do have some testimony
19 prepared to address this issue. I can ask Mr. Sacks to
20 address it now since it's on topic, if that would be
21 helpful.

22 HEARING OFFICER KRAMER: Go ahead.

23 MR. SACKS: Good afternoon. My name is Jonathan
24 Sacks.

25 Hearing Officer Kramer, the major factor

1 associated with the guaranty is associated with the
2 financing that's necessary to actually construct the
3 project. A guaranty to meet the permit limits is a
4 necessary condition to achieving financing. And a
5 situation where a permit limit is not able to be
6 guaranteed would severely impair, if not absolutely
7 preclude, a financing, which would ultimately impair the
8 viability of the project such that it couldn't be built.

9 HEARING OFFICER KRAMER: Thank you.

10 Another issue Mr. Sarvey at least hinted at
11 was -- I believe he was complaining that offsets were not
12 being required for the additional particulate matter that
13 might result from the chemical reactions of this
14 additional ammonia getting into the atmosphere.

15 Can one of you address that concern?

16 MR. BIRDSALL: Yes. I think this falls into
17 staff's realm, so this is part of my Staff Assessment.
18 Because ammonia is not a criteria pollutant regulated by
19 the air districts, meaning that the air district does not
20 require offsets for ammonia emissions, it does not
21 require -- it does not require a best available control
22 technology review for ammonia. But in the Staff
23 Assessment, we consider ammonia to be a precursor to
24 particulate matter. And I know that commissioners will
25 remember this issue from cases long past.

1 But what we -- what we are aiming to do is to
2 essentially control the ammonia emissions to the extent
3 feasible. We're not looking for offsets of ammonia
4 emissions. Instead we look to manage the other precursors
5 to particulate formation that join with the ammonia. And
6 that would be the nitrogen oxides and the sulfur oxides.
7 And if those pollutants are offset, the nitrogen oxides
8 and the sulfur oxides, then the likelihood of secondary
9 particulate formation is minimized, because those oxides
10 pair up with the ammonia to create ammonia particulates.

11 And so the limiting factor is to -- or the
12 mitigation strategy that the air district adheres to and
13 that staff aligns its assessment with is to seek no net
14 increase of nitrogen oxides and sulfur oxides through the
15 use of offsets.

16 So for this case, what that means is that staff
17 has requested - and I believe this is Condition AQSC-7 -
18 but staff is recommending that offsets be provided for
19 sulfur oxides and offsets be required for particulate
20 matter as well. And that's a direct particulate matter
21 from the staff -- or from the stack. Excuse me.

22 And then the air district requires offsets for
23 nitrogen oxides.

24 So staff's Condition of Certification requires
25 more offsets than the air district requires, because we

1 require some of the sulfur -- we require that all of the
2 sulfur oxides be offset.

3 So that's the strategy for dealing with the
4 secondary particulate matter.

5 HEARING OFFICER KRAMER: So, in essence, are you
6 telling me that you have required the appropriate level of
7 offsets for the additional slip?

8 MR. BIRDSALL: Well, we're not requiring offsets
9 for the ammonia slip. We're requiring offsets for the
10 nitrogen oxides and the sulfur oxides and the particulate
11 matter that is directly emitted by the stack. And that
12 mitigates the effect of the secondary particulate from the
13 ammonia slip.

14 PRESIDING MEMBER BOYD: That precludes the
15 formation of particulate matter that ammonia would
16 contribute to.

17 So I'm obliged to put that in the record because
18 I think it's very important for those who are concerned
19 about the ammonia slip.

20 MR. BIRDSALL: As Commissioner Boyd points out,
21 it does address and mitigate and offset the precursors
22 that need to pair up with the ammonia in order to create
23 that particulate matter. So in a way it precludes the
24 formation of the secondary particulate.

25 HEARING OFFICER KRAMER: So reducing the slip to

1 5 ppm would not result in a reduction in PM formation
2 then?

3 MR. BIRDSALL: I couldn't necessarily agree to
4 that, because the ammonia will find other nitrogen oxides
5 in the region and other sulfur oxides in the region.

6 Staff has had a long-standing position that
7 ammonia is a precursor, and so this is why we seek to
8 minimize it. And in this particular case, on this simple
9 cycle case, which is different from some of the combined
10 cycles that I've been on recently because it's a simple
11 cycle case, it's a -- the minimized level would be the 10
12 ppm. That's the achievable level here.

13 HEARING OFFICER KRAMER: Thank you.

14 I have one other question about air quality. And
15 that's, in reviewing the conditions, I did not see a
16 condition that has been present in many of our recent
17 cases - maybe I missed it and you can point me to it - but
18 a condition that describes the offsets that the applicant
19 is proposing to use for this project and then provides --
20 makes it clear that those are the offsets that are going
21 to be used and perhaps will also provide a mechanism for
22 the applicant to use different offsets in the future if
23 permission is obtained. But it makes it clear that until
24 you get approval, that the offsets that were reviewed by
25 the staff and the air district will be the offsets that

1 are actually used for the project.

2 Did I miss the condition or --

3 MR. BIRDSALL: I know this is an issue that
4 you're sensitive to. This is in AQSC-7. And I did not
5 draft a table in Condition AQSC-7 because the applicant
6 has four offsets and I listed them in a sentence. So they
7 appear in a sentence of AQSC-7. I did not write them into
8 a table. However, there is a table on the Staff
9 Assessment that shows the quantity of emission reduction
10 credits that are attributable to those four credits.

11 HEARING OFFICER KRAMER: Okay. Yes, you've
12 satisfied my request.

13 MR. BIRDSALL: That list in AQSC-7 pairs nicely
14 with Air Quality Table 19. And it also pairs nicely with
15 this exhibit that the applicant filed today or submitted
16 today. It's called AQ-43 -- or, sorry -- Exhibit 43 on
17 the top. Is that the official exhibit number?

18 MS. COTTLE: Yes, it is.

19 HEARING OFFICER KRAMER: Yes.

20 Okay. Thank you. You've answered my question.

21 Do you have any questions?

22 Okay. We can move off of air quality then to
23 transmission system engineering.

24 MARK HESTERS AND PETER MACKIN

25 was called as a witnesses herein, and after

1 first having been duly sworn, was examined and
2 testified as follows:

3 HEARING OFFICER KRAMER: And we have two
4 witnesses on our panel. So let me ask each of you to
5 identify yourselves and spell your name for our court
6 reporter.

7 MR. MACKIN: Yes. My name is Peter Mackin. I am
8 a witness for Mirant. And my name is spelled P-e-t-e-r
9 M-a-c-k-i-n. And I have a business card I can give to the
10 reporter later.

11 MR. HESTERS: My name is Mark Hesters. I'm a
12 witness for staff. It's M-a-r-k, last name is
13 H-e-s-t-e-r-s.

14 HEARING OFFICER KRAMER: The revised Staff
15 Analysis indicates then -- well, is it fair to say that
16 you would have preferred to have a little more information
17 to be able to complete your analysis?

18 And what would that information be?

19 MR. HESTERS: We would have liked to have had the
20 Phase 2 cluster study for the greater Bay Area.

21 HEARING OFFICER KRAMER: And how does that differ
22 from the Phase 1 study?

23 MR. HESTERS: In that particular case the Phase 1
24 study looked at 4700 megawatts in the Bay Area cluster as
25 12 projects and studied them all at once. And the Phase 2

1 plus study all but -- all but a little over a thousand
2 megawatts of those generator -- of that generation dropped
3 out of the queue. And the results of a -- I mean the
4 analysis of a -- actually it was 159 megawatts in a
5 cluster -- are going to be a lot different than the sort
6 of results of the study at 4700 megawatts.

7 HEARING OFFICER KRAMER: Did you want to say
8 something, Mr. Mackin?

9 MR. MACKIN: Yes. I'd just like to add that also
10 a change from a Phase 1 cluster to the Phase 2 cluster.
11 Mirant's capacity size in their initial -- in the Phase 1
12 cluster, they were asking for 1,087 megawatts. And here
13 in Phase 2, because of the retirement of Contra Costa's 6
14 and 7, their increase is now only a hundred megawatts.

15 So if you look at the relationship between the
16 two clusters, in Phase 1 Mirant was about 23 percent of
17 the total cluster. And now in Phase 2 they're down to
18 around 9 percent. So there's a significant reduction in
19 their impact.

20 HEARING OFFICER KRAMER: Okay. And this way of
21 studying the system impacts and clusters is a -- it's a
22 relatively new approach, correct?

23 MR. MACKIN: Yes, it is.

24 HEARING OFFICER KRAMER: What I'm trying to do is
25 get an understanding of -- am I correct, Mr. Hesters, that

1 you're not trying to analyze any downstream facilities to
2 permit them, simply to know what they might be and look at
3 their environmental impacts; is that a fair statement?

4 MR. HESTERS: Yeah. It's part of the CEQA
5 requirements that we look at the whole project. And what
6 we call sort of the downstream transmission facilities.
7 We don't license those facilities. Those are actually
8 licensed, in this case if they're owned by PG&E, by the
9 Public Utilities Commission.

10 But in order to meet our CEQA requirements, we
11 need to work at downstream facilities, not to a permit
12 level, but we need to include potential impacts of
13 those -- whatever those downstream facilities are.

14 HEARING OFFICER KRAMER: So knowing what you know
15 presently, do you have any reason to suspect that there is
16 going to be a -- for instance, a new substation required
17 to connect this project?

18 MR. HESTERS: I don't think there's going to be
19 a -- because the cluster has been reduced so
20 significantly. And I don't think there's going to show in
21 the Phase 2 study that a new substation is required.

22 However, I do think it's reasonably likely that
23 there may be some restructuring required, partly because
24 in the reduction of the size of the cluster, there's still
25 a significant number of resources connecting to the Contra

1 Costa substation. We have in front of us the Oakley
2 powerplant. Also it's the Contra Costa substation, and
3 the Mariposa project, which was pretty close to the Contra
4 Costa substation. And we're still looking at a little
5 over 900 megawatts right in that same portion of the
6 greater Bay Area, and is likely to show some
7 reconductoring.

8 HEARING OFFICER KRAMER: You didn't mention the
9 Willow Pass. Is that part of the cluster or --

10 MR. HESTERS: Willow Pass is no longer part of
11 the cluster.

12 HEARING OFFICER KRAMER: Is it out of the queue?

13 MR. HESTERS: It is out of the queue.

14 HEARING OFFICER KRAMER: Oh. I won't know I was
15 supposed to know that from a status report.

16 Anyway, did you want to add something, Mr.
17 Mackin?

18 MR. MACKIN: Yes, I do.

19 I want to -- I agree with what Mark just briefly
20 indicated. However, I would also like to add that even
21 once the Phase 2 study is released, there will be impacts
22 indicated in that study. However, that's not the end of
23 the process. Because once you get Phase 2, then there's
24 180 days so in the process for additional collateral to be
25 posted as a bond to ensure that these facilities can be

1 constructed.

2 And, therefore, some of the facilities that are
3 still in Phase 2 could potentially drop out. And if they
4 drop out, then the impacts are reduced even further.

5 So even after the Phase 2 study comes out, we
6 really won't know for sure what facilities are still going
7 to go in service or be constructed and then what
8 reinforcements will be needed for those to mitigate the
9 impact of those facilities.

10 HEARING OFFICER KRAMER: Mr. Hesters.

11 MR. HESTERS: One other thing is that with the
12 reduction in sort of the net output for the proposed Marsh
13 Landing Project, going from 900 megawatts to 100 megawatts
14 and becoming a much smaller part of the queue, their
15 responsibility for any overloads that show up in the
16 cluster study is likely to be pretty small, on the order
17 of that 9 percent or even a little bit more than 9
18 percent, but not much. So it further complicates the sort
19 of CEQA requirement for a downstream facility for which
20 the facility that -- for the powerplant that really only
21 is responsible for a small part of an overload.

22 PRESIDING MEMBER BOYD: Mr. Hesters, when you
23 talk about responsibility, you know, impinging upon a
24 question in my mind about the difficulty for you and for
25 all of us in dealing with these cumulative impact-type of

1 analyses in that taken in isolation, this project, which
2 happens to be higher up in the queue, you know, may result
3 in no impact, but a subsequent project when added to that
4 cluster then maybe exacerbates the problem and creates a
5 problem.

6 So how is responsibility allocated therefor in a
7 situation like that? In my mind it's kind of like the
8 first pig to the trough gets a free lunch. But maybe
9 that's simplifying it beyond all reason.

10 MR. HESTERS: That used to be the way it was.
11 But when you're looking at a cluster, the trough may now
12 be in the Energy Commission's siting process. So the
13 first project in our process is then responsible for
14 making sure that we have some kind of environmental
15 analysis of all the downstream facilities for the cluster.

16 I'm not an attorney. But that is a different way
17 to look at it.

18 PRESIDING MEMBER BOYD: Yeah. Well, it's not
19 unique to transmission providers.

20 Anyway, thank you.

21 HEARING OFFICER KRAMER: So do you have in mind a
22 worst-case amount of system improvements that would be
23 necessary to accommodate these projects in the cluster?

24 MR. HESTERS: Possibly. We have -- at the start
25 of this process, the applicant provided a System Impact

1 Study that was done solely for the purpose of their
2 project, a 960 megawatt combined cycle tied in -- not
3 960 -- a little over thousand megawatts combined cycle
4 connecting to Contra Costa.

5 That's about how many megawatts we have now in
6 the cluster connecting to Contra Costa.

7 It's likely that we will see some of those same
8 impacts that they identified. That was essentially four
9 lines. I think we have them identified in the -- in our
10 Staff Assessment. It's on I guess the top of page 5.5-8.
11 It totals about 49 miles of 230 kV lines that will require
12 reconductoring. It includes the Contra Costa - Brentwood
13 230 kV line, the Contra Costa - Wind Masters 230 kV line,
14 the Wind Masters - Delta Pump 230 kV line, and the Las
15 Posita pump - Newark 230 kV line. And those lines are
16 pretty closely related to the Contra Costa substation.

17 HEARING OFFICER KRAMER: And was there a
18 reconductor that was required of those lines?

19 MR. HESTERS: Yes.

20 HEARING OFFICER KRAMER: So do you have an
21 opinion as to whether any impacts of the reconductoring
22 activity could be -- well, could not be mitigated to
23 insignificant levels?

24 MR. HESTERS: I don't. I mean reconductoring is
25 usually a pretty straightforward process. For a large

1 part the Public Utilities Commission has been --
2 recondutoring from sort of -- well, do I want to say
3 serious environmental analysis, because the impacts are so
4 slight? The only time they require CTC ends or
5 Certificates of Public List --

6 HEARING OFFICER KRAMER: Convenience and
7 necessity?

8 MR. HESTERS: -- convenience and necessity is
9 when there is sensitive habitat or specific reasons to
10 require that level of analysis.

11 I don't know the area this well. I'm not an
12 expert in the biological impacts or what types of habitats
13 are in this area and what other types of impacts these
14 recondutorings would have.

15 HEARING OFFICER KRAMER: Do you have any reason
16 to think though -- and, Mr. Mackin, you can add on -- that
17 there would be impacts that could not be mitigated to
18 insignificant levels from that activity?

19 MR. HESTERS: I think it's unlikely.

20 MR. MACKIN: Yeah. I'd just like to add that
21 Anne Connell provided a portion of the TSE testimony, or
22 an exhibit I believe to that testimony, that addressed
23 potential environmental concerns with recondutoring. So
24 that has been addressed. And I believe the testimony -- I
25 mean I should let her speak to it. But I believe the

1 testimony indicated that it could be mitigated -- fully
2 mitigated.

3 HEARING OFFICER KRAMER: Well, could she speak to
4 that?

5 And also could we identify which exhibit that
6 earlier study was that Mr. Hesters referred to?

7 MS. COTTLE: One of their responses.

8 Anne Connell is here and she can speak to this.

9 It might have been 14.

10 It's -- hold on one second.

11 I'm sorry. I think it was Exhibit 18. It would
12 be applicant's responses to staff data request set 2. And
13 it's in responses 64 through 69. I believe that's where
14 our environmental analysis of the potential reconductoring
15 project was provided.

16 HEARING OFFICER KRAMER: Thank you.

17 Ms. Connell, did you want to add something to
18 this discussion?

19 MS. CONNELL: I was just going to confirm that
20 that was correct. I believe that's true, and it was
21 Appendix D to that -- to those responses to data requests.

22 Actually it's -- it's actually -- I'm sorry.
23 It's Exhibit 9. It was the responses to the Data Requests
24 Set 1, and it was the Appendix D.

25 MS. COTTLE: Thank you.

1 So Exhibit 9 responses is the applicant's
2 responses to the staff Data Requests Set 1. This is
3 included in responses 37 through 45. And the actual
4 analysis of potential environmental impacts and how they
5 could be mitigated is in Appendix D.

6 HEARING OFFICER KRAMER: Which is in the exhibit
7 list. They're delineated as 9, sub G and N, as in Nancy.

8 MS. COTTLE: Yeah, it's 9 sub N, and then within
9 that, sub 1. Appendix D1, Reconductoring the Project -
10 Preliminary Environmental Analysis.

11 HEARING OFFICER KRAMER: Okay. Ms. Connell, did
12 you want to add something or --

13 MS. CONNELL: No, unless there's any questions.

14 HEARING OFFICER KRAMER: Well, so then did you
15 conclude in that analysis that any potential impacts of
16 the reconductoring could be mitigated to insignificant
17 levels?

18 MS. CONNELL: Yes, I believe that is our -- was
19 our conclusion based on that preliminary System Impact
20 Study that Mr. Mackin referred to.

21 MS. COTTLE: We do have a copy here, if you'd
22 like to confirm.

23 HEARING OFFICER KRAMER: I can look at it later.

24 MS. COTTLE: Okay.

25 PRESIDING MEMBER BOYD: While we've got these two

1 transmission experts here, I'm going to ask a question.

2 Presuming the cluster study bears out your
3 feelings that there might be a very slight additional
4 impact and this facility's responsible for about 9 percent
5 of that impact, when would reconductoring actually ever
6 take place?

7 MR. MACKIN: This is Peter Mackin.

8 I think what would happen is, assuming that the
9 Phase 2 study says there would be some reconductoring
10 required and then assuming that no one drops out of a
11 cluster at that point and they all go forward to be
12 constructed, then what would usually happen is the
13 utility -- there'll be LGIAs signed -- large generator
14 interconnection agreements signed on each individual
15 generator. And those LGIAs will specify when certain
16 facilities will be constructed on, you know, the timelines
17 and schedules, so that the facilities are in place in time
18 so they'd be in service when the generation comes on line
19 and they would be required to maintain reliability.

20 Now, what can happen is -- let's say, a project
21 comes on line or it could come on line very quickly, and
22 another project in the cluster is going to take much
23 longer to come on line, what can happen is the ISO or PG&E
24 can come up with an operational study or an operational
25 plan that says, okay, for the first generator coming on

1 line, these reinforcements are not required for you. But
2 you're part of the cluster. You do have to pay for them.
3 And then when the second generator then comes on line, the
4 facilities would be put in place. So they would have an
5 operational plan that would allow the generation -- one of
6 the generators, for example, to operate without the
7 reinforcement being in place, even though they were
8 required as part of a cluster, because they're not
9 required for reliability with just that one generator. So
10 that can happen.

11 But in all cases and at all times, you know,
12 reliability is maintained. The ISO and PG&E wouldn't
13 allow a generator to interconnect without making sure that
14 all facilities needed to maintain reliability are in
15 place.

16 PRESIDING MEMBER BOYD: And you touched barely
17 upon what was going to be my second question. And that's
18 paying for it. One of the things I just wanted to
19 understand is, when and how is the financial
20 responsibility determined and when is payment actually
21 made?

22 MR. MACKIN: Okay. Well, I can address I think
23 the requirements of the LGIP. But as it pertains
24 specifically to Mirant, I think maybe one of the other
25 witnesses should address that.

1 So are you asking me about just the LGIP, the
2 large generator interprocess, or more specifically --

3 PRESIDING MEMBER BOYD: Well, I think I'm asking
4 the bigger question.

5 MR. MACKIN: Okay. So that's --

6 PRESIDING MEMBER BOYD: So why don't you answer
7 your piece and then we'll go to the Mirant and I'll pick
8 it up from there.

9 What I'm trying to get in the record is that
10 there are processes that would provide for the financing
11 of any of these type of modifications to the transmission
12 system that would take place that were deemed to be
13 necessary, and therefore there's not a worry for
14 permittees to have with regard to, oh, what if, you know
15 is that -- how is that going to get paid for.

16 MS. COTTLE: If I may. Wouldn't it be helpful to
17 explain the collateral requirements in that context?

18 MR. MACKIN: Yeah, that's what I was going to do.

19 So what we have in the LGIP, there's the Phase 1
20 study which has been completed. And once that study is
21 completed, there's a variable requirement for collateral.
22 There's three options. And one of them is 15 percent of
23 the total cost of the network upgrades have to be -- and
24 it has to be put up as a deposit, or \$20,000 per megawatt
25 or \$7,500,000, whichever is less, but no less than

1 \$500,000. That's at the end of Phase 1, that has to be
2 deposited for each generator in the cluster. Their cost
3 responsibility, they have to put up that collateral.

4 Then after Phase 2, there's additional
5 requirements that -- and there's also requirements for the
6 interconnection facilities themselves, which are the
7 facilities that you directly -- are directly required to
8 interconnect the facility, the variable requirements I
9 just discussed before the network upgrades which are the
10 downstream facilities.

11 And then for Phase -- after Phase 2 is done, you
12 have 180 days to come up with the collateral. And that
13 collateral requirement is 30 percent of the cost estimate
14 of the network upgrades, either -- it's the smaller of
15 what was identified in either Phase 1 or Phase 2. So if
16 in Phase 2 the cost requirement goes down, then your
17 collateral requirement is 30 percent of that lower number.
18 But, again, in no event is it less than \$500,000.

19 And then there's -- the same requirement is 30
20 percent for the interconnection facilities. So you've
21 got -- after Phase 2 now it's 30 percent, 30 percent.

22 And then, finally, it says -- in the tariff it
23 says, "On or before the start of the construction the
24 applicant has to put up a hundred percent of the
25 requirement for the network facilities and the

1 interconnection facilities." So in other words, before
2 construction starts on the -- that's construction starts
3 on the facilities that are required, not construction
4 starts on the plant -- a hundred percent has to be put up.

5 So that should cover the cost of all those
6 facilities.

7 MR. HESTERS: It is important to note that once
8 the powerplant starts operating the generator -- the
9 generator is compensated for the network upgrade costs,
10 plus a small bit of interest. But in the long run,
11 something that actually improves the network, the
12 ratepayers were paying for it.

13 PRESIDING MEMBER BOYD: I was going to say,
14 ultimately we pay for it. But it's financed, and that's
15 what I wanted to make clear for everybody if I had a
16 question about that.

17 So I'm satisfied, unless the applicant wanted to
18 add any more.

19 MS. COTTLE: Well, the only other thing I guess I
20 would just maybe ask for confirmation of is that given
21 that this Phase 2 study will be done as a cluster study,
22 maybe the witnesses could confirm that, except that other
23 contracts in the cluster are before the Energy Commission,
24 any downstream impacts would be evaluated -- the same
25 upgrades potentially could be evaluated as your part of

1 the review of the other projects in the clusters. Is that
2 accurate?

3 MR. HESTERS: Yes. We only need to do them once,
4 but it seems like at some point we do need to do them.

5 PRESIDING MEMBER BOYD: Okay. Thank you.

6 HEARING OFFICER KRAMER: Okay. Unless somebody
7 has something more to add from staff for the applicant on
8 transmission system engineering, we're satisfied.

9 Ms. Willis, did you say something about typos
10 before we started today?

11 SENIOR STAFF COUNSEL WILLIS: Yes, Mr. Greenberg
12 brought up a few typos in the waste section.

13 HEARING OFFICER KRAMER: Okay. Let's have him
14 come forward.

15 Were you here to be sworn?

16 DR. GREENBERG: Yes, I was.

17 HEARING OFFICER KRAMER: Okay. Do I need to
18 write these down or are you going to submit them in an
19 eMail or something?

20 DR. GREENBERG: Well, they're fairly easy.

21 This is Alvin Greenberg. I'm the author of the
22 Waste Management Section for staff.

23 They were inadvertently inserted by a staff
24 assistant. So I had no knowledge of them until I saw them
25 printed out. And it's just additional wording that

1 somehow made its way into my section. So it's nothing
2 that needs to be changed, just merely deleted.

3 Page 4.13-17. You look at the narrative there
4 under the heading "Impact on Existing Waste Disposal Site
5 Facilities," you'll see two paragraphs starting with
6 "verification." We have no idea how that got in there,
7 but the words "verification" should not have been in
8 there.

9 HEARING OFFICER KRAMER: Give me the page again.

10 DR. GREENBERG: 4.13-17.

11 HEARING OFFICER KRAMER: And that sounds like the
12 word style sheet problem, but...

13 DR. GREENBERG: Hearing Officer Kramer, if I made
14 the mistake, I'd own up to it. But I don't know how that
15 got in there.

16 And then if you go 4.13-19, Response to Agency
17 and Public Comments. There's a second paragraph there
18 concerning a eucalyptus tree -- or a row of eucalyptus
19 trees. Somehow that got inadvertently added into waste
20 management. And it really belonged in traffic and
21 transportation.

22 HEARING OFFICER KRAMER: And is it in fact
23 already in traffic and transportation?

24 DR. GREENBERG: That I don't know.

25 SITING PROJECT MANAGER MONASMITH: No.

1 HEARING OFFICER KRAMER: I'm going to ask Mr.
2 Monasmith to just docket a little cheat sheet for these
3 changes.

4 Those are the two?

5 DR. GREENBERG: That is it, sir.

6 HEARING OFFICER KRAMER: Okay. Thank you.

7 Before we take public comment, do parties have
8 any other business we need to discuss?

9 MS. COTTLE: We had prepared some short direct
10 testimony just as -- for purposes of providing some
11 information we thought might be of interest to the
12 Committee. We can proceed with that if that's acceptable.

13 I can tell you the topics we're planning to
14 address, if you'd like to hear that first.

15 HEARING OFFICER KRAMER: Yeah, I think that would
16 be good.

17 So what are the topics?

18 MS. COTTLE: We wanted to clarify or I guess just
19 summarize information about the project design and what
20 the project is capable of doing operationally, why Mirant
21 selected the design that it selected, meaning the simple
22 cycle peaking facilities.

23 We have a little bit of comment on the fact that
24 Marsh Landing is a separate project from Contra Costa.
25 They're independent. But Marsh Landing does facilitate

1 the retirement. And then we're going to explain how that
2 occurs.

3 And we've had some information on the
4 conversations that we have had with the vendors to confirm
5 that the ammonia slip limit of 5 parts per million we
6 could not obtain a guaranty for that because they don't
7 believe it's achievable -- does not commit that it's
8 achievable.

9 MS. CONNELL: We're going to introduce our
10 exhibit about the ERCs and which ones would be
11 surrendered. And then provide a little information about
12 the project schedule.

13 HEARING OFFICER KRAMER: How long do you think
14 you'll need for that?

15 MS. COTTLE: We were estimating about 20 minutes.
16 We can try and make it.

17 HEARING OFFICER KRAMER: Please, go ahead.

18 MS. COTTLE: Okay.

19 HEARING OFFICER KRAMER: And in the meantime, if
20 anybody wants to make a public comment, if -- you don't
21 have to, but if you want to fill out one of these blue
22 cards, it's helpful. The public Advisor has some or
23 they're at the table on the other side of the wall in the
24 back.

25 MS. COTTLE: This testimony would be provided by

1 Jonathan Sacks, who's already been sworn. And he's our
2 witness for a number of different areas, including project
3 description. He also did provide the testimony on the
4 ammonia slip issue in part of the air quality testimony.

5 JONATHAN SACKS

6 was called as a witness herein, and after
7 first having been duly sworn, was examined and
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MS. COTTLE:

11 So I would just start by asking Jonathan.

12 Mr. Sacks, could you briefly describe the Marsh
13 Landing Generating Station, just the power generating
14 facility portion of the project.

15 MR. SACKS: Thank you.

16 The Marsh Landing Generating Station is a peaking
17 facility consistent four Siemens 5,000 amp combustion
18 turbines operating simple cycle mode. Each turbine is
19 capable of producing approximately 190 megawatts, with the
20 facility having a nameplate capacity of 760 megawatts.
21 Marsh Landing Generating Station holds a maximum annual
22 capacity factor of 20 percent.

23 MS. COTTLE: And can you explain how the permit
24 conditions that are proposed in the air district's final
25 determination of compliance and the Revised Staff

1 Assessment ensure that the project won't operate at more
2 than a 20 percent annual capacity factor?

3 MR. SACKS: Certainly. There's multiple permit
4 conditions that insure the project cannot exceed a maximum
5 annual capacity factor of 20 percent. There are
6 conditions related to the hours of operation as well as
7 the emissions.

8 For example, AQ-15 specifies that the maximum
9 number of hours the facility can operate; Permit
10 Conditions AQ-14, 22, 23, and 24 all relate to the annual
11 emission limits of the facility as well as specifying that
12 these emissions will be monitored and tracked by the
13 facility to ensure compliance with those limits.

14 MS. COTTLE: You said that the four combustion
15 turbine generators will operate in simple cycle mode. Can
16 you explain what simple cycle mode means?

17 MR. SACKS: Simple cycle mode means that the
18 combustion turbines are used to generate electricity and
19 then the exhaust expelled through the stack.

20 The other typical mode, and what this is in
21 contrast to, is a combined cycle mode where waste heat is
22 used to generate steam in a heat recovery steam generator,
23 which is then used to turn a steam turbine.

24 MS. COTTLE: We talked about this facility
25 being -- intended to be a peaking facility. Can you

1 explain what a peaking facility is designed to do?

2 MR. SACKS: A peaking facility is designed to
3 supply electric energy at the times that it's most needed
4 by the system.

5 The Marsh Landing Generating Station is capable
6 of starting up very quickly to meet peak demands and then
7 shut down very quickly when it's no longer needed. This
8 allows for a surgical operation of the units to minimize
9 operating times and, hence, emissions from the units to
10 only those times when the energy from those units is
11 actually needed by the system, during times of high
12 temperatures, local transmission system reliability
13 issues, or when energy may not be available from other
14 resources, namely, intermittent resources, which are not
15 dispatchable.

16 MS. COTTLE: Thank you.

17 Are there reliability services that this
18 project can provide that are somehow more beneficial than
19 perhaps might be obtained from a combined cycle facility?

20 MR. SACKS: The primary benefits of the Marsh
21 Landing Generating Station in its configuration is that it
22 is able to respond very rapidly to meet system needs,
23 especially at peaks or when other issues are going on in
24 the system as I identified previously.

25 Some of the services that the Marsh Landing

1 Generating Station will provide include services to the
2 California Independent System Operator, such as
3 non-spinning reserves in regulation services.
4 Non-spinning reserves is the number of megawatts that are
5 available from a facility within ten minutes. Each of the
6 four turbines of the Marsh Landing Generating Station will
7 be capable of achieving 150 megawatts in ten minutes.
8 Regulation services are the rate of change of megawatts in
9 a minute. Each unit is capable of providing up to 30
10 megawatts per minute of regulating services -- regulation
11 services.

12 The Marsh Landing facility therefore is capable
13 of providing up to 120 megawatts per minute of regulation
14 services. This is more non-spinning reserve of
15 regulations services than can be provided by existing or
16 proposed combined cycle plants that I'm aware, including
17 those with fast start capability.

18 MS. COTTLE: Are there other benefits of building
19 a simple cycle facility as compared to a comparable
20 combined cycle facility?

21 MR. SACKS: From a consumer perspective, there is
22 significant cost benefits, because a simple cycle facility
23 is considerably less expensive to build. A combined cycle
24 facility with a comparable nameplate capacity is likely to
25 cost 1 1/2 to 2 times more to build than this project.

1 That increased capital cost is reflected in the
2 price that's ultimately paid by consumers. While that
3 cost differential can be justified for intermediate and
4 base-load units due to their higher fuel usage, for
5 purposes of meeting peak demand a simple cycle facility
6 like the Marsh Landing Generating Station offers a
7 significant value to consumers as compared with a combined
8 cycle facility.

9 In addition, although simple cycle technology is
10 less efficient than combined cycle technology, a simple
11 cycle facility will have a lower total annual emissions of
12 GHG and other pollutants. As I said earlier, this is
13 related to its dispatch at a lower annual capacity factor
14 and the ability to surgically operate the units to meet
15 demands.

16 It's also a function of quick start
17 characteristics that I've described which allows the
18 facility to turn on and turn off quickly.

19 MS. COTTLE: How did Mirant select the design for
20 the project?

21 MR. SACKS: Mirant participated in the 2008 PG&E
22 long-term Request for Offers. We submitted more than one
23 project configuration into that Request for Offers. The
24 Marsh Landing simple cycle configuration was announced as
25 a winner by PG&E in that Request for Offers. This is why

1 we amended our original application in September of 2009
2 to reflect the current project design.

3 The testimony that PG&E has filed at the CPUC as
4 well as testimony from other parties indicates that the
5 Marsh Landing project was a clear winner of the 2008
6 long-term RFO based on the ability to meet PG&E's
7 identified needs for dispatchable, fast-ramping
8 capabilities, and based on superior economics and value
9 from a ratepayer perspective.

10 Based on PG&E's testimony, the Marsh Landing
11 simple cycle configuration is the project that best met
12 PG&E's identified need at the lowest cost.

13 MS. COTTLE: Did Mirant also submit a proposal to
14 build a combined cycle project in PG&E's RFO?

15 MR. SACKS: Yes. But PG&E selected this peaking
16 facility as a winning project.

17 MS. COTTLE: We also wanted to just explain a
18 little bit how the Marsh Landing Generating Station
19 relates to the Contra Costa powerplant, and in particular
20 the planned retirement. So I was going to ask --

21 PRESIDING MEMBER BOYD: Could I ask a question
22 before you move to a slightly different topic?

23 MS. COTTLE: Yes, of course.

24 PRESIDING MEMBER BOYD: I have a couple
25 questions.

1 What are the heat rates of these units? Could
2 you remind me?

3 MR. SACKS: The base-load heat rate of these
4 units is about 10,500 BTU per kilowatt hour.

5 PRESIDING MEMBER BOYD: And heat rate of
6 equivalent combined cycle?

7 MR. SACKS: Is somewhere around 7,000.

8 PRESIDING MEMBER BOYD: And you mentioned because
9 it's a peaker that the net emissions would be less than a,
10 you know, base-load combined cycle plant. Does that hold
11 true also for the ammonia slip that we were talking about
12 earlier, that even though a greater percentage in the eyes
13 of some people is being allowed, that at a 20 percent
14 capacity factor would the net emissions of ammonia be less
15 than if you had built the combined cycle facility?

16 MR. SACKS: Yes, sir. That is what we expect.

17 PRESIDING MEMBER BOYD: Thank you.

18 MS. COTTLE: Mr. Sacks, will the Marsh Landing
19 Generating Station be part of the existing Contra Costa
20 powerplant?

21 MR. SACKS: No. The Marsh Landing Generating
22 Station will be located on a site that is adjacent to the
23 existing Contra Costa powerplant, a facility that is owned
24 and operated Mirant Delta LLC. Mirant Marsh Landing and
25 Mirant Delta are separate and entities that are both

1 owned, directly and indirectly, respectively, by Mirant
2 America, Inc., and then held by the ultimate parent
3 company, Mirant Corporation.

4 Mirant Marsh Landing and Mirant Delta have
5 independent finances, independent contractual obligations
6 and operations. Contra Costa powerplant and Marsh Landing
7 will at all times be operated separately and independently
8 from each other.

9 Marsh Landing Generating Station will have its
10 own natural gas supply line and metering station, its own
11 electrical interconnection, its own control room, its own
12 water supply and waste water discharge connection, its own
13 independent contractual arrangements covering the sale of
14 the power -- of its power output as well as independent
15 financing contracts in place.

16 MS. COTTLE: In your written testimony, you
17 stated that Mirant Delta has agreed to retire the existing
18 units 6 and 7 at the Contra Costa powerplant that's also
19 been addressed in the Revised Staff Assessment.

20 Can you explain how that retirement will be
21 enforced?

22 MR. SACKS: Certainly. Mirant Delta agreed to
23 the requirement to shut down at the end of the day on
24 April 30th, 2013, as part of the tolling agreement that is
25 executed with PG&E. That tolling agreement is currently

1 pending approval before the CPUC in the same proceeding as
2 the Marsh Landing PPA. The same proposed decision that
3 would approve the Marsh Landing PPA would also approve the
4 tolling agreement for the Contra Costa powerplant, which
5 includes this provision.

6 Ones that approval is final, the tolling
7 agreement provides for PG&E to purchase the output of the
8 Contra Costa units through the end of the day on April
9 30th of 2013.

10 At that time, Mirant Delta's contractually
11 obligated to shut down and permanently retire the Contra
12 Costa powerplant unless the CAISO were to determine that
13 the Contra Costa powerplant is required for reliability
14 purposes and steps in to prohibit the retirement -- the
15 planned retirement of these units.

16 Mirant Delta has submitted an application to the
17 Bay Area Air Quality Management District to amend the air
18 permit for the Contra Costa units to include the
19 conditional shutdown requirement for Contra Costa units 6
20 and 7 in those units' air permit.

21 The CAISO has also recently sent a letter to the
22 air district, the BA AQMD, stating that it does not
23 foresee a need to require the continued operation of
24 Contra Costa powerplant units 6 and 7 after April 30th of
25 2010. And that letter has been submitted and marked as

1 Exhibit 44 for the record.

2 MS. COTTLE: Thank you.

3 If anyone were to suggest that there should be
4 some kind of permit condition for Marsh Landing that
5 requires the retirement of Contra Costa units 6 and 7,
6 what would the effect of that type of permit limit be?

7 MR. SACKS: Such a permit condition would
8 severely impair and potentially preclude the ability to
9 finance the Marsh Landing Generating Station. As we
10 discussed earlier, the Marsh Landing Generating Station
11 would be financed on a non-recourse basis, which is also
12 known as a project financing. The project lenders will
13 require Marsh Landing to own or have contractual control
14 over all requirements to construct and operate the
15 project.

16 Because neither Marsh Landing -- Mirant Marsh
17 Landing nor its lenders will have rights or recourses to
18 Mirant Delta or the ability to control Mirant Delta such
19 to require it to shut down the Contra Costa powerplant,
20 any permit condition that would require action by Mirant
21 Delta in Mirant Marsh Landing's permit is likely to impair
22 or preclude financing.

23 There is no need furthermore for such a permit
24 condition, because Mirant Delta has already requested an
25 amendment to its air permit that requires the retirement

1 on the same terms that are contained in the tolling
2 agreement with Contra Costa powerplant.

3 MS. COTTLE: So when parties have stated in this
4 proceeding that construction of Marsh Landing provides a
5 benefit by facilitating the retirement of units 6 and 7 at
6 Contra Costa powerplant, how is that accurate given that
7 there's no permit condition that requires the retirement
8 associated with this project?

9 MR. SACKS: That is accurate because of the
10 permit condition that Mirant Delta has submitted to the
11 air district, as well as the contractual language in the
12 tolling agreement with PG&E.

13 MS. COTTLE: And if Marsh Landing comes on line,
14 what is the effect that's had on the ISO's determination
15 of whether or not Contra Costa powerplant is still needed?

16 MR. SACKS: The ISO in a letter that's marked as
17 Exhibit 44 states that they do not foresee a need for
18 either Contra Costa units 6 or 7 after the Marsh Landing
19 powerplant were to become operational.

20 MS. COTTLE: So the construction of Marsh Landing
21 makes it more likely that the ISO would conclude that
22 these units are no longer needed; is that correct?

23 MR. SACKS: Yes.

24 MS. COTTLE: Thank you.

25 We did already talk about Exhibit 43, which is a

1 table showing the emission reduction credits, the
2 certificates that Mirant has available to be surrendered
3 to provide the required offsets for Marsh Landing's
4 emissions, as we've discussed earlier.

5 Mr. Sacks, could you just explain what Exhibit 43
6 shows briefly.

7 MR. SACKS: Certainly. Exhibit 43 shows each of
8 the pollutants for which emission reduction credits are
9 being required. It shows the quantity of offsets that are
10 being required per the Bay Area Air Quality Management
11 District's final determination of compliance, as well as
12 staff's Revised Staff Assessment. It shows the three
13 certificate numbers which are relevant to this proceeding
14 and it shows the credits that are currently owned, the
15 current -- the credits that are to be surrendered, and
16 then the credits that would be remaining on each
17 certificate following their surrender.

18 I will note that these are three of the
19 certificates that Mirant owns. There are additional
20 credits that Mirant owns that are in excess of those
21 needed for this project. And those holdings are not
22 reflected on this table.

23 MS. COTTLE: So can you confirm then that Mirant
24 has access to sufficient ERCs to satisfy all of the
25 requirements for offsets that are required in the FDOC and

1 the Revised Staff Assessment?

2 MR. SACKS: Yes, Mirant currently owns more than
3 sufficient credits to off -- fully offset the emissions
4 that are being required by both the air district and staff
5 in its Revised Staff Assessment. You see that in the
6 "Total" columns on Exhibit 43 as well as the check
7 statement that the emissions are being fully offset.

8 MS. COTTLE: Thank you.

9 MR. SACKS: If I could just add also, that the
10 credits that are being shown, the footnotes of Exhibit 43
11 indicate the sources of each of those credits. And that
12 while certainly not a requirement, these are local credits
13 with the vast majority coming from Antioch and Martinez in
14 the immediate area and a small number coming from San
15 Leandro, which is also within the Bay Area.

16 MS. COTTLE: Thank you.

17 Now, we're just going to provide a little bit of
18 additional information about the ammonia slip limit, which
19 has been discussed already.

20 Mr. Sacks, did you review the proposed condition
21 that was included in the April 26th Staff Assessment for
22 ammonia slip emissions?

23 MR. SACKS: Yes, I did. I reviewed that proposed
24 condition and discussed it with staff, Mr. Birdsall,
25 extensively at the May 4th, 2010, workshop. At that

1 workshop we went over at length the reasons why the
2 proposed limit was not proper for this project.

3 Leading up to that meeting, I had many meetings
4 and discussions with both our EPC contractors as well as
5 the potential SCR vendors that would be supplying the SCR
6 to this project as to whether the Marsh Landing Generating
7 Station could meet an ammonia slip limit of 5 ppm, and
8 whether the vendors would guaranty that limit.

9 For simple cycle units using frame-type turbines,
10 in other words large-type turbines like these are, the SCR
11 vendors and the EPC vendor were not willing to guaranty
12 that the project would meet a 5 ppm limit because of the
13 temperature of the exhaust, the volume of exhaust, and the
14 mixing associated with the introduction of dilution air,
15 and as well as the issues that were raised by Mr. Birdsall
16 and Mr. Lusher.

17 MS. COTTLE: And were the results of your
18 conversations with vendors and your analysis included in
19 writing in written documents that were submitted in this
20 proceeding?

21 MR. SACKS: Yes, they were.

22 MS. COTTLE: And can you identify where that
23 written explanation is found.

24 MR. SACKS: That written explanation was
25 submitted and docketed on May 24th in the applicant's

1 comments to the staff assessment.

2 MS. COTTLE: And did you include letters from the
3 EPC contractor and the SCR vendor explaining what you've
4 just recounted?

5 MR. SACKS: Yes, they did.

6 MS. COTTLE: Okay. I have a few -- our last line
7 of just presentation has to do with the contractual
8 obligations and the schedules for the project.

9 So, Mr. Sacks, your testimony on project design
10 states that you're sponsoring Exhibit 35, which was a
11 letter actually from counsel notifying the Committee of
12 certain contractual deadlines for the Marsh Landing
13 Project. Are you familiar with the facts as presented in
14 that letter?

15 MR. SACKS: Yes, I am. I've been a lead member
16 of all of the contract negotiations associated with the
17 Marsh Landing Generating Station, including those with
18 PG&E as the off-taker as well as Siemens, our equipment
19 supplier, and Kiewit Power, our EPC contractor.

20 MS. COTTLE: Can you describe the contractual
21 arrangements that are in place for this project?

22 MR. SACKS: Yes. As I mentioned, Mirant Marsh
23 Landing has executed a power purchase agreement with PG&E
24 for the output of the Marsh Landing Generating Station.
25 That power purchase agreement requires Mirant Marsh

1 Landing to construct the Marsh Landing Generating Station
2 as a simple cycle facility consisting of four combustion
3 turbines. The executed PPA is pending before the CPUC.

4 A proposed decision that approves the MLGS, Marsh
5 Land Generating Station, PPA has been circulated for
6 comment by the CPUC. And we expect the CPUC to approve
7 the PPA in late July.

8 Mirant Marsh Landing has also executed a turbine
9 supply agreement with Siemens, who will be the
10 manufacturer of the four gas turbines.

11 We also have executed an engineering procurement
12 and construction contract with Kiewit Power, the
13 construction contractor that is responsible for building
14 the Marsh Landing Generating Station and procuring the
15 other major equipment such as the post-combustion emission
16 control technologies.

17 MS. COTTLE: So is it correct to say that Mirant
18 has executed and finalized all of the major contracts that
19 need to be in place in order to support financing and
20 allow construction to begin?

21 MR. SACKS: Yes.

22 MS. COTTLE: And when do you plan to start
23 construction assuming that a license is issued in this
24 proceeding?

25 MR. SACKS: Our current plan provides for us to

1 start construction as early as the end of this year.

2 We need to release Siemens to start ordering long
3 lead time parts and materials in order to initiate the
4 process of fabricating the turbines this fall in order to
5 maintain the current project schedule and to meet the
6 deadlines in the PPA.

7 MS. COTTLE: And to keep to that schedule what is
8 the date by which you would ideally, well, obtain a
9 Commission license, Mr. Sacks?

10 MR. SACKS: In the letter we had asked the
11 Commission for a decision in this proceeding by the end of
12 August.

13 MS. COTTLE: And that allows you to stay on your
14 current construction schedule?

15 MR. SACKS: Yes, it'll allow for the necessary
16 financing to be in place to support the payments necessary
17 to start the turbine manufacturing process and allow for
18 the project to be constructed in the time expected.

19 MS. COTTLE: Thank you.

20 That concludes our written presentation -- our
21 direct presentation, unless the Committee has questions.

22 PRESIDING MEMBER BOYD: No questions. Thank you.
23 Very educational.

24 HEARING OFFICER KRAMER: You know what? I just
25 discovered maybe one problem with the exhibit list.

1 MS. COTTLE: Yeah, I think there's a -- an
2 exhibit? Is it missing or misnumbered?

3 HEARING OFFICER KRAMER: Well, exhibits 41 and 42
4 look to be the same animal.

5 MS. COTTLE: Yes.

6 HEARING OFFICER KRAMER: And if staff is willing,
7 what we can do is Ms. Cottle can head over to my office,
8 look at the big box of exhibits, and just work that out.

9 MS. COTTLE: I have them here also.

10 HEARING OFFICER KRAMER: So I'm proposing to do
11 this off line, unless staff objects.

12 SENIOR STAFF COUNSEL WILLIS: We have no
13 objection.

14 HEARING OFFICER KRAMER: Okay. So we'll take
15 care of that after the hearing.

16 And of course attached to the proposed decision
17 there will be an updated exhibit list.

18 So then that leaves us with the opportunity for
19 public comment.

20 I have four cards so far.

21 Tom Hansen from IBEW Local 302. Are you here?

22 Would you come to the mike.

23 MR. HANSEN: Thank you. My name's Tom Hansen. I
24 work at IBEW Local 302. We represent the electricians in
25 Contra Costa County. We have 1500 members there.

1 We've come here -- I've come here to support the
2 project of the Marsh Landing Project in their name. Marsh
3 Landing is an important project. It will augment the
4 renewable portfolio that the State of California is trying
5 to put in place. Some days the wind's not going to blow
6 or sometimes the sun's not going to shine. So we're going
7 to need projects like this in place that are modern plants
8 that will be able to run clean and efficient when those
9 things are not occurring.

10 This is going to have modern technology. And as
11 it says, going to replace outdated equipment which is also
12 going to probably drop the carbon footprint also, which
13 would be good for the Bay Area.

14 This is an appropriate location. This area is
15 also an industrial site. We've had a lot of chemical
16 plants in this area, paper mills. This has been a heavy
17 industrial area. So placing a plant like this is actually
18 going to go with what has been historically used in this
19 area. It's not putting -- it is in a brownfield, not a
20 greenfield. So it is actually using what is already in
21 that community but in a much better way, because it's
22 going to be much cleaner than the heavy industry that was
23 there in the past.

24 For our point, from the IBEW's point, the
25 electrician's point, this means work. Our members are

1 going to get to go to work. Especially in this economic
2 time, this is like a local stimulus package for the
3 construction community in Contra Costa County. And this
4 one is being supplied by the private sector. So we're
5 getting private sector into our economy and getting our
6 people back to work.

7 And the other part of this for us is it's also
8 training opportunity for our apprentices. Our
9 apprenticeship is a five-year program or a place to start
10 out doing helping. They go into commercial work and they
11 finish up with a hand in industrial. And this is a
12 state-of-the-art plant and where they'll be able to learn
13 the state-of-the-art motor control and process control.
14 So this would be a good opportunity for our apprentices to
15 go to work on this project also.

16 So we'd like your support of this project. Thank
17 you.

18 HEARING OFFICER KRAMER: Thank you.

19 George Kikes from Plumbers and Steamfitters 342,
20 I think.

21 MR. KIKES: Yes, George Kikes. I'm a business
22 agent there. We're located in Concord. We have 3100
23 members, many of them living in Contra Costa County. And
24 we're in full support of this project. We'd like to do
25 this project. We can do it safety and we can do it

1 efficiently for you.

2 Thank you.

3 HEARING OFFICER KRAMER: Thank you.

4 Tom Baca of the Boilermakers International.

5 MR. BACA: Everything that guy right there just
6 said.

7 I'm Tom Baca, I'm the International Vice
8 President for the International Brothers of Boilermakers.
9 We build boilers in the United States and Canada.

10 Despite what these electricians say, I just want
11 to clear it up right here. They run the little wires to
12 the houses. We make the electricity. The boilermakers
13 build boilers.

14 We have boilermakers in Pittsburg, California, is
15 where our local. I used to be the business manager. And
16 I don't need -- you know, I say after all this as a
17 third-generation boilermaker and having 42 years in the
18 trade, it was very interesting, parts of it.

19 And I appreciate these commissioners taking your
20 time to do this day in and day out.

21 You know, my dealings with Mirant, they're -- you
22 know, we deal with a lot of companies, obviously a lot of
23 power companies all over the United States and Canada. My
24 dealings with Mirant LLC here in California is they're a
25 ethical company. They're very community-oriented company.

1 They care about the community. That's important to me,
2 because my offices are in Concord even though I represent
3 the 13 western states, and I reside in Concord and
4 Martinez, California.

5 So, you know, we support the project for all the
6 reasons that -- they're taking dirtier units off line,
7 they're putting these on. It's going to be more
8 efficient. There's going to be less water use. You know,
9 all the things you all know and all the things your people
10 here have said, much better than I could, your experts.

11 So we support the project for jobs, good paying
12 union jobs with pensions and benefits, health -- you know,
13 health and welfare for our members. But it's just a great
14 project. I mean I know you're looking at and you can see
15 that there's -- I don't see the downside to it.

16 And the upside is not only the union jobs but all
17 of the -- what's great for you is going to go out -- the
18 residual jobs out in the community and the ongoing jobs.

19 So thank you for taking your time, and I
20 appreciate being able to speak to you.

21 Thank you.

22 HEARING OFFICER KRAMER: Thank you for giving me
23 the pronunciation of Greg's name. I was pretty afraid I
24 was going to mangle it.

25 Greg Feere.

1 MR. FEERE: Great on the pronunciation.

2 Good afternoon, Chairman of the Board, members of
3 the Commission. My name is Greg Feere. I'm the head of
4 the Contra Costa Building Construction Trades Council.
5 We're made up of 30 construction trades and approximately
6 35,000 building tradesmen and women.

7 Unfortunately, right now we're facing somewhere
8 in excess of 30 percent unemployment. The downturn in the
9 economy has hurt us dramatically, probably much worse than
10 anybody in the employment sector.

11 And every time we turn around, you know, in the
12 economy we hear this race to the bottom. We've got just
13 the opposite from Mirant and this project. We have got
14 over the years - and I've been here for a long time, and I
15 happen to live in the community where this project's going
16 to be built - we've got nothing but full cooperation.
17 We've maintained the existing facilities and we've built
18 every single construction -- or major construction project
19 and powerplant in Contra Costa County for the last 20
20 years that I've been around.

21 We finished up the Gateway project with PG&E with
22 101.4 million hours without a lost-time accident.

23 But more importantly, right now the social and
24 economic impacts for this project are dramatic. Every day
25 I get people asking, "When are these projects going to

1 happen?" This project is opportunity. More than
2 opportunity. It's hope, if people know that there's job
3 down the road. And the timing of this is actually really
4 good. If it's right before the holidays, this would be
5 the very best Christmas present that any family or wife or
6 child could ask for, having their parent go to work.

7 And so we're really hopeful that this project can
8 go forward, actually sooner than maybe they would like,
9 but we're were all for it. And, you know, one thing that
10 it never really comes out a whole lot of the times, but
11 for every one construction job, there's roughly three
12 secondary jobs. So there's a lot of people that you never
13 see on the projects that are actually benefiting. And the
14 community needs these things badly.

15 The Community Benefits Agreement that Mirant has
16 worked out with the City of Antioch and the county are
17 dramatic. I mean if you look at the city, these cities
18 are shutting down. There's no -- in Antioch, where I
19 live, they close down city services on Fridays. They have
20 no operational monies. It's really pretty sad.

21 But, on the good part, you know, I think hope's
22 on the way. We've worked out a project labor agreement
23 successfully with Mirant. It's been nothing but full
24 cooperation. There's a 30-year maintenance agreement to
25 maintain these facilities. Hopefully somewhere down the

1 road these young men and women that take over the projects
2 will look back and they'll say, "The head of that building
3 trades guy wasn't such a dumb guy after all. And he's
4 provided them job opportunities for the future."

5 So I would hope that you would not only approve
6 this project but as quick as possible. And we can put
7 Californians back to work.

8 Thank you.

9 PRESIDING MEMBER BOYD: Thank you.

10 HEARING OFFICER KRAMER: Thank you.

11 That exhausts my speaker cards.

12 Does anyone else here in the room with us wish to
13 make a public comment?

14 Seeing none.

15 PRESIDING MEMBER BOYD: I think at this time I
16 should do something I neglected to do at the beginning
17 when we were referencing elected officials. But I should
18 note for the record - and I don't think this has been
19 docketed because it's dated just yesterday - but we as a
20 committee are in receipt of a letter from Congressman John
21 Garamendi in support of the project. So I just wanted to
22 mention that for the record. And we'll see that it's
23 docketed for this particular case.

24 So thank you.

25 HEARING OFFICER KRAMER: Okay. Now let's go to

1 the folks on the telephone.

2 Does anybody on the telephone on WebEx wish to
3 make a public comment?

4 Going -- okay. Thank you.

5 Do the parties have any other business we need to
6 discuss before we close up?

7 MS. COTTLE: I do not.

8 SENIOR STAFF COUNSEL WILLIS: No, we don't.

9 HEARING OFFICER KRAMER: Okay. Then we can close
10 it.

11 PRESIDING MEMBER BOYD: Well, thank you,
12 everybody, for being here. This has proven to be a very
13 pleasant experience today. And my voice has come back a
14 little bit.

15 (Laughter.)

16 PRESIDING MEMBER BOYD: Due to resting it and
17 maybe a little hot tea.

18 I neglected to mention to welcome to
19 California on -- or into Sacramento on July 1st, the first
20 day of the new fiscal year, for which the State of
21 California doesn't have a budget. I'm glad somebody paid
22 the electric bill.

23 Frankly, we don't know whether -- we
24 commissioners don't know whether we're working for
25 nothing. This time last year we were working for nothing.

1 And the staff has been told that they'll be working --
2 they're working for minimum wage. So I salute them for
3 coming to work in any event.

4 But you'll find your Energy Commission staff are
5 a very dedicated group of people who are facing the
6 largest powerplant setting case workload in the history of
7 this organization, at a time when a lot people need jobs
8 and at a time when, you know, we can't hire more people.
9 We don't have enough money. And we have gone through
10 furlough Fridays for a long time. Starting tomorrow,
11 well, I guess we're going to be at the office. So I guess
12 we don't have furlough Fridays anymore. And people have
13 been living with 14 percent pay cuts for quite some time
14 now.

15 So we're glad to do what we have to do and
16 evaluate these types of projects in accordance with the
17 law that provided for the Energy Commission and its siting
18 process and gave the Commission the authority to have a
19 CEQA process, which seems laborious to a lot of people but
20 actually saves a lot of time and a lot grief for some
21 folks.

22 So I thank you all for your participation. And
23 we look forward to making our final evaluation and moving
24 this case on as rapidly as possible.

25 Gee, I don't think I have a hearing case anymore.

1 But that will be nice for a change.

2 And, again, I thank Mirant for their
3 presentations, and they've been very forthcoming and we
4 appreciate that. And always to the staff for their hard
5 work.

6 And I appreciate the good discussion we had with
7 the air quality issues. And I appreciate the Bay Area
8 District being here and present today.

9 So unless my co-chair has any comments, then
10 I'll --

11 HEARING OFFICER KRAMER: I have one more thing.

12 PRESIDING MEMBER BOYD: And Mr. Kramer will --

13 ASSOCIATE MEMBER DOUGLAS: I'll just make a brief
14 closing comment, first by piling on Commissioner Boyd's
15 comments and agreeing thoroughly with him and joining him
16 in thanking all of you and particularly those of you who
17 came here to Sacramento to be here in person and deliver
18 public comment. That's always very value and we really
19 appreciate it when you do that.

20 With that, Hearing Officer, that will conclude my
21 closing comments. Thank you.

22 Hearing Officer Kramer.

23 HEARING OFFICER KRAMER: Okay. Just for the
24 record, on the subject of public comments, this will be
25 the close of the evidentiary hearings. And what we said

1 in the notice of these hearings was that we would not take
2 any public comments after this point in time. However,
3 there is another opportunity once the presiding member's
4 proposed decision comes out for people to comment.

5 So what we want people to do who may have a
6 comment in their heads that they haven't made yet is to
7 hold on to it and wait and see when the PMPD comes out if
8 they're comment still has some relevance, and then make it
9 to us at that point in time.

10 So you're not -- this isn't your last shot,
11 members of the public. But we want have a timeout so we
12 can prepare a decision for you to look over.

13 And with that, we are adjourned.

14 Thank you.

15 (Thereupon the hearing adjourned at 3:49 p.m.)

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1 CERTIFICATE OF TRANSCRIBER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Energy Commission Evidentiary Hearing
7 was transcribed in shorthand by computer-assisted
8 transcription by me, James F. Peters, a Certified
9 Shorthand Reporter of the State of California, from the
10 electronic sound recording.

11 I further certify that I am not of counsel or
12 attorney for any of the parties to said hearing nor in any
13 way interested in the outcome of said hearing.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 4th day of July, 2010.

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22 JAMES F. PETERS, CSR, RPR

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